

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

KIMBALL CONSTRUCTION CO., INC.

9615 Philadelphia Road

Baltimore, Maryland 21237

Baltimore County, Maryland

Plaintiff,

v.

Case No. _____

XL SPECIALTY INSURANCE COMPANY

70 Seaview Avenue

Seaview House

Stamford, Connecticut 06902

Defendant.

* * * * *

NOTICE OF REMOVAL

Defendant, XL Specialty Insurance Company (“XL”), by its undersigned attorneys and pursuant to 28 U.S.C. §§ 1441 and 1446, submits this Notice of Removal for the purposes of removing this action from the Circuit Court for Anne Arundel County, Maryland to this Court, and in support thereof, states:

1. Plaintiff, Kimball Construction Co., Inc. (“Kimball”), commenced this action against XL on or about June 14, 2016 in the Circuit Court for Anne Arundel County, Maryland, Case No. C-02-cv-16-001909 (the “State Court Action”).

2. Kimball alleges in the Complaint in the State Court Action that, among other things, XL owes or may owe Kimball as a result of having issued payment bonds on behalf of Blumenthal Kahn Truland Electric, LLC a/k/a Truland Electric, LLC (“Truland”) in connection with several projects. Truland is currently the subject of a bankruptcy proceeding in the United States Bankruptcy court for the Eastern District of Virginia, Case No. 14-12766 (the “Truland

Bankruptcy”), and is not a party to this action. Pursuant to its Complaint, Kimball “claims in excess of \$75,000 in damages and costs of suit.”

3. A copy of the Complaint filed by Kimball in State court and the accompanying Civil Non-Domestic Case Information Report is attached hereto as Exhibit A. Exhibits 1 through 10 to the Complaint are also submitted herewith. A copy of the Writ of Summons issued by the Circuit Court is attached hereto as Exhibit B. These documents constitute all process, pleadings, and orders that were served upon XL in the State Court Action.

4. XL first received notice of the State Court Action on June 28, 2016. It received a copy from the Maryland Insurance Commissioner, who is authorized to accept process on behalf of XL in Maryland. The Maryland Insurance Commissioner was served on June 22, 2016.

5. XL seeks removal of the State Court Action pursuant to 28 U.S.C. §§ 1332 and 1441 on the basis of diversity of citizenship and the amount in controversy. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(a) because the action involves a controversy between citizens of different states, and the amount in controversy, exclusive of interest and costs, exceeds \$75,000.

6. Kimball is a Maryland corporation with its principal place of business in Baltimore, Maryland.

7. XL is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in Connecticut.

8. As Kimball is a citizen of Maryland and XL is a citizen of Delaware and/or Connecticut, complete diversity exists.

9. Pursuant to 28 U.S.C. § 1441(b)(1), this Notice of Removal is being filed within 30 days after XL was served a copy of the Complaint.

10. Pursuant to 28 U.S.C. § 1441(b)(2), there are no other Defendants to this action whose consent is required to remove the State Court Action. XL is the sole Defendant.

11. A copy of the Notice of Filing of Removal which XL is filing with the Circuit Court for Anne Arundel County, Maryland and serving on counsel for Kimball as required by 28 U.S.C. § 1446(d) is attached hereto as Exhibit C.

/s/ Patrick J. Madigan

Patrick J. Madigan, Bar No. 27312

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Attorneys for XL Specialty Insurance Company

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of July, 2016, a copy of the foregoing Notice of Removal and the accompanying documents was served, via email and regular mail, postage prepaid, on Charles Yumkas and Donald J. Walsh, Offit Kurman, P.A., 300 East Lombard Street, Suite 2010, Baltimore, Maryland 21202, cyumkas@offitkurman.com, dwalsh@offitkurman.com, attorneys for the Plaintiff.

/s/ Patrick J. Madigan

Patrick J. Madigan, Bar No. 27312